

Exhibit A

UNITED STATES DISTRICT COURT

**DISTRICT OF OREGON
PORTLAND DIVISION**

CHRISTOPHER WISE, *et al.*,

Plaintiffs.

v.

CITY OF PORTLAND, *et al.*,

Defendants.

Case No. 3:20-cv-01193-IM

**DECLARATION OF
PATRICK ZITNY**

I, Patrick J. Zitny, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. This declaration is based on my personal knowledge and information made available to me in the course of my official duties.
2. I am the Federal Protective Service (FPS) Deputy Regional Director for Region 10. In that role, I serve as an extension of the Region Director and operating with full authority to execute the mission of the FPS in Region 10 which includes the states of Washington, Oregon, Idaho, and Alaska. I also serve as the Deputy Commander of the US Department of Homeland Security (DHS) Rapid Deployment Force for Operation Diligent Valor in Portland Oregon.
3. Regular protests began in downtown Portland on May 26, 2020. The protests occurred on a daily basis, with largely peaceful protests occurring during the daytime. The daytime protests were regularly followed by nightly criminal activity in the form of vandalism, destruction of property, looting, arson, and assault, directed at federal property (Mark O. Hatfield Federal Courthouse, the Pioneer Federal Courthouse, the Gus Solomon Federal Courthouse, the Immigration and Customs Enforcement (“ICE”) Building, and the Edith Green-Wendall Wyatt Federal Office Building) and federal law enforcement officers.
4. In response to this increase in damage to federal property and assaults on federal law enforcement officers, DHS deployed more officers to Portland as part of Operation Diligent Valor, for the purposes of protecting federal buildings and property. All DHS law enforcement officers engaged in protecting federal facilities within Portland are doing so under the Secretary of Homeland Security’s authority provided in 40 U.S.C. § 1315.
5. During the summer FPS erected a security fence around the Hatfield courthouse in an effort to provide the necessary set back to prevent individuals from breaching the building or striking it with projectiles. As the level of violence around the Courthouse began to decrease from

November to early March, the decision was made to remove the security fence. The fence was deconstructed by GSA contractors from March 9 to March 11, 2021.

6. On March 11, 2021, I was serving as the Incident Commander for Operation Diligent Valor. During the day, the final portions of the security fence were removed. The following events occurred shortly after the fence was removed.

- a. At approximately 2:53 p.m., a group of violent demonstrators who had been protesting around several federal facilities and other non-federal buildings arrived outside of the Hatfield Courthouse. The demonstrators opened the front glass doors of the courthouse and began to throw objects into the lobby. The Court Security Officers chained up the three front doors to the courthouse and the demonstrators threw paint onto the doors and began to pull on the doors in an attempt to breach the building.
- b. At approximately 2:55 p.m., FPS responded and began to push the demonstrators away from the front doors back onto the sidewalk. DHS then established a hard perimeter in front of the courthouse. At approximately 2:59 p.m., the Portland Police Bureau (PPB) requested FPS assistance in arresting an individual who was mixed in with the demonstrators outside the courthouse. At approximately 3:04 p.m., PPB departed with the suspect in custody. At approximately 3:10 p.m., FPS disengaged with the demonstrators and moved inside the courthouse. At 3:15 p.m., an unknown demonstrator threw a hard object into one of the windows on the entryway doors of the courthouse shattering it. From approximately 4:00 p.m. to 9:00 p.m., GSA had a contractor board up all ground floor windows of the courthouse with plywood to prevent additional broken windows. FPS remained in the Hatfield Courthouse to monitor the situation and ICE Special Response Team (SRT) deployed to the Edith Green-Wendell Wyatt Federal building nearby.
- c. Between approximately 8:30 p.m. and 8:40 p.m., 20-25 demonstrators were on the steps of the courthouse building heckling the contractors who were boarding up the windows. At approximately 8:55 p.m., once the contractors had departed, the demonstrators began to pull down the plywood. From approximately 9:00 p.m. to 9:30 p.m., the demonstrators broke two windows and one of the glass front doors to the courthouse. In addition, they set several small fires on the steps and at the base of a column of the courthouse and spraypainted graffiti on the front door. At approximately 9:30 p.m., demonstrators breached the courthouse building and smoke from the fires outside of the courthouse was entering the buildings. At approximately 9:34 p.m., demonstrators pointed lasers and threw rocks at DHS officers. At approximately 9:40 p.m., DHS officers deployed and pushed the demonstrators back away from the courthouse using crowd control munitions.
- d. At approximately 9:50 p.m., FPS and ICE returned to the Hatfield Courthouse and the Edith Green-Wendell Wyatt building to continue monitoring the situation. At approximately 9:55, FPS issued six Long Range Acoustic Device (LRAD) warnings to the demonstrators that the federal property was closed and that their presence on the property was illegal. At approximately 9:57 p.m., a firework was launched from a mortar onto the steps of the Courthouse. Between approximately 10:10 – 10:15 p.m., the

demonstrators set another fire at the front door to the Hatfield Courthouse and a larger fire at the NW corner of the building.

- e. At approximately 10:20 p.m., FPS identified one of the demonstrators who had broken windows, who was taken into custody. At the same time, FPS issued three more LRAD warnings about the federal property being closed and both FPS and ICE SRT deployed from the Hatfield Courthouse and the Edith Green-Wendell Wyatt building due to a large fire on the side of the courthouse building. FPS requested assistance from the Portland Fire Department (PFD) and pushed the crowd away from the courthouse using crowd control munitions.
 - f. By approximately 10:38 p.m., the DHS officers had returned to the courthouse remaining on portion of the sidewalk on federal property. At approximately 10:50, FPS issued another six LRAD warnings and ICE SRT staged at the front of the courthouse.
 - g. At approximately 11:00 p.m., demonstrators threw hard objects at the federal officers. At approximately 11:03 p.m., DHS officers pushed the crowd to the west away from the courthouse using crowd control munitions. By approximately, 11:10 p.m., the DHS officers had returned to Hatfield Courthouse.
 - h. At approximately 11:12 p.m., demonstrators again pointed lasers at DHS officers and lit a fire in a garbage can and pushed the can against the North West pillar of the courthouse. DHS officers pushed the can away from the building and extinguished the fire. At approximately 11:33 p.m., demonstrators were again hitting DHS officers with hard objects.
 - i. At approximately 11:35 p.m., DHS officers arrested one individual on federal property. At 11:36 p.m., FPS issued another six LRAD warnings to approximately fifty demonstrators in the street in front of the Hatfield Courthouse. At approximately 11:59 p.m., five windows were broken near the South-East corner of the courthouse.
 - j. At approximately 12:05 a.m. on March 12, 2021, fifty to fifty-five demonstrators remained in the area around the courthouse. At approximately 12:10 a.m., FPS arrested another demonstrator on federal property. By approximately 12:45 a.m., the crowd had reduced down to about 30 demonstrators. By approximately 1:20 a.m., the crowd was down to only about ten to twelve demonstrators. By approximately 1:39 a.m., all demonstrators had left the area.
 - k. At approximately 2:00 a.m., FPS officers remained on post at the Hatfield Courthouse until GSA was able to arrive in the morning to begin repairs.
7. In total during the violent demonstrations on March 11-12, 2021, FPS made three arrests for Failure to Comply with lawful orders and one arrest for felony destruction of government property. One FPS officer suffered a serious injury to their hand. In addition, three ICE SRT officers suffered injuries after being hit by a metal bar, a rock and a glass bottle thrown by violent demonstrators.

8. As described above, the demonstrations on March 11-12, 2021 outside of the Hatfield Courthouse involved repeated attempts to breach the property or to set fire to it. Multiple windows were broken as well as one of the main glass entrance doors. Officers were repeatedly stuck with hard objects and had lasers pointed at them. Despite repeated warnings the violent demonstrators were unwilling to comply with the directions of federal law enforcement officers to leave federal property.

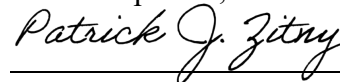
9. Exhibits 1-5 are photos taken by FPS that show the destruction of the Hatfield Courthouse on March 11, 2021. Exhibits 6-8 are photos taken by FPS that show remnants from the fires set in close proximity to the Courthouse on March 11, 2021.

10. DHS officers did not target any specific demonstrators but instead engaged in general crowd control operations to protect the Hatfield Courthouse and the federal officers protecting the building. While it is possible that plaintiff Wise was hit with crowd control munitions during general crowd control operations, neither he nor any other demonstrator was targeted.

11. On March 14, 2020, the U.S. Marshals Service (USMS) established a new security fence around the courthouse which remains in place as of the date signing.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: April 23, 2021

A handwritten signature in cursive script, reading "Patrick J. Zitny", written in black ink.

Patrick J. Zitny















